IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 23RD JULY 2007 / 1ST SRAVANA 1929

WA.No. 1760 of 2007

(AGAINST THE JUDGEMENT IN WPC.8754/2005 Dated 01/03/2007)

APPELLANT/PETITIONER

THE TRIVANDRUM CO-OPERATIVE DISTRICT
WHOLESALE SOCIETY LTD., NO. 4
SASTHAMANGALAM TRIVANDRUM, REPRESENTED BY ITS
MANAGING DIRECTOR.

BY ADV. SRI.V.G.ARUN
ADV. SRI.T.R.HARIKUMAR

RESPONDENTS/RESPONDENTS:
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1. THE KERALA CO-O-PERATIVE TRIBUNAL,
TRIVANDRUM.

2. THE ASSISTANT REGISTRAR OF
CO-OPERATIVE SOCIETIES (PLANNING) TRIVANDRUM.

3. V.KRISHNAN NAIR, SANKARA VILAS,
T.C. 18/172, ARAMADA PO,
TRIVANDRUM,.

4. THE ASSISTANT REGISTRAR OF
CO-OPERATIVE SOCIETIES (GENERAL)
TRIVANDRUM.

BY SPL. GOVERNMENT PLEADER FOR CO-OPERATIVE SOCIETIES,
SMT. A.G. ANEETHA.
R3 BY ADV. SHRI G. SASIDHARAN CHEMPAZHANTHIYIL.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 23/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN,J.

W.A. NO. 1760 OF 2007

Dated this the 23rd July, 2007

JUDGMENT

H.L.DATTU, C.J.

Appellant before us is the petitioner in W.P.(C) No.8754 of 2005. Appellant is a society registered under the provisions of the Kerala Co-operative Societies Act.

2. The third respondent in the Writ Petition was an employee of the society. He has retired from the service of the society. He had filed A.R.C. No.113 of 1995 before the Arbitrator claiming pension and gratuity amounts payable by the society.

3. The society has also filed A.R.C.No.99 of 1998, inter alia, requesting the Joint Registrar of the Co-operative Societies to pass an award for the recovery of the amount allegedly misappropriated by the third respondent employee.

4. The Joint Registrar of Co-operative Societies has disposed of the dispute raised by the employee. The A.R.C filed by the Society is still pending. After the award was passed, the employee has taken steps to execute the award. It is at that stage the petitioner was before this Court inter alia seeking the following reliefs:

i) to call for the records leading to Exts.P3 and P4 and quash the same;

ii) to issue a direction to the Assistant Registrar of Co-operative Societies to dispose of A.R.C. No.99 of 1998 as expeditiously as possible; and

iii) to direct the fourth respondent to desist from proceeding with the execution proceedings pursuant to A.R.C. No.113 of 1995 (A.P.No. 24 of 2002) till a decision is taken in A.R.C. No.99 of 1998.

5. The learned single Judge has rejected the Writ Petition. That is how the petitioner has approached us in this Writ Appeal.

6. Sri.V.G.Arun, learned counsel appearing for the appellant would submit that the learned single Judge was not justified in rejecting the Writ Petition.

7. The admitted facts are: The third respondent was working as an employee of the appellant society. He has retired from service. Since the terminal benefits had not been paid to him, he had filed a dispute before the Joint Registrar of Co-operative Societies in A.R.C. No.113 of 1995. Nearly after three years, the appellant society has also filed A.R.C. No.99 of 1998 before the Joint Registrar of Co-operative Societies, inter alia, seeking the Joint Registrar to pass an award for the alleged misappropriation of funds by the third respondent employee.

8. In our opinion, if for any reason, the Society was of the view that both the matters required to be heard and disposed of together, request should have been made before the Joint Registrar of Co-operative Societies. That is not done in the instant case.

9. The third respondent after obtaining the order from the Joint

Registrar of Co-operative Societies has initiated steps to execute the award. That award cannot be kept in abeyance, since the appellant society has not questioned the correctness or otherwise of the award passed by the Joint Registrar of Co-operative Societies. Keeping all these aspects of the matter, the learned single Judge, in our opinion, has rightly rejected the Writ Petition. We do not find any ground to interfere with the orders passed by the learned single Judge. Therefore, the Writ Appeal requires to be rejected and it is rejected.

Ordered accordingly.

(H.L.DATTU)
Chief Justice

(K.T.SANKARAN)
Judge

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